



STATE OF NEW YORK

UNEMPLOYMENT INSURANCE APPEAL BOARD

PO Box 15126

Albany NY 12212-5126

DECISION OF THE BOARD

Mailed and Filed: OCTOBER 17, 2022

IN THE MATTER OF:

Appeal Board No. 624267

PRESENT: JUNE F. O'NEILL, MEMBER

The Department of Labor issued the initial determinations disqualifying the claimant from receiving benefits, effective March 12, 2022, on the basis that the claimant voluntarily separated from employment without good cause and, in the alternative, on the basis that the claimant lost employment through misconduct in connection with that employment and holding that the wages paid to the claimant by BROOKLYN METHODIST prior to March 12, 2022 cannot be used toward the establishment of a claim for benefits. The claimant requested a hearing.

The Administrative Law Judge held a telephone conference hearing at which testimony was taken. There were appearances on behalf of the claimant. By decision filed June 23, 2022 (), the Administrative Law Judge did not rule on the misconduct determination and sustained the initial determination of voluntary quit without good cause.

The claimant appealed the Judge's decision to the Appeal Board.

Our review of the record reveals that the case should be remanded to hold a hearing. Prior to the hearing, the employer requested an adjournment because its witness from the vaccine exemption committee was not available for the hearing. The Board has determined to provide the parties another opportunity to submit additional testimony and other evidence. Specifically, the employer should provide a direct witness as to the reason that the claimant's religious exemption request was denied in January 2022 and whether her prior requests for exemption from the employer's influenza vaccination policy had been granted or denied. In addition, the employer shall be afforded the opportunity

to cross-examine the testimony of the claimant from the first hearing.

Now, based on all of the foregoing, it is

ORDERED, that the decision of the Administrative Law Judge be, and the same hereby is, rescinded; and it is further

ORDERED, that the case shall be, and the same hereby is, remanded to the Hearing Section to hold a hearing on the issues of voluntary quit without good cause and misconduct, upon due notice to all parties and their representatives; and it is further

ORDERED, that the hearing shall be conducted so that there has been an opportunity for the above action to be taken, and, so that at the end of the hearing, all parties will have had a full and fair opportunity to be heard; and it is further

ORDERED, that an Administrative Law Judge shall render a new decision, on the issues, which shall be based on the entire record in this case, including the testimony and other evidence from the original and the remand hearings, and which shall contain appropriate findings of fact and conclusions of law.

JUNE F. O'NEILL, MEMBER